

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

COWLING STORAGE COMPANY

Plaintiff,

v.

UNITED FIRE & CASUALTY COMPANY

Defendant.

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CIVIL ACTION NO. 5:19-cv-00066

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF THIS COURT:

UNITED FIRE & CASUALTY COMPANY, (hereinafter "United Fire"), Defendant in the above styled and numbered cause, files this, its Notice of Removal, and would show the Court as follows:

1. UNITED FIRE & CASUALTY COMPANY has been sued in a civil action styled Cause No. 2019534443; *Cowling Self Storage v. United Fire & Casualty Company*; in the 72nd District Court in Lubbock County, Texas (hereafter referred to as "the state court action"). The petition in the state court action was filed March 5, 2019. On March 11, 2019, United Fire received citation and a copy of the petition, and at that time it was determined that diversity jurisdiction was proper, pursuant to 28 U.S.C. §1332.

2. United Fire files this notice of removal pursuant to the provisions of 28 U.S.C. §1441, *et. seq.*, to remove this action from the District Court of Lubbock County, Texas to the United States District Court for the Northern District of Texas, Lubbock Division.

3. Plaintiff, in its original petition, alleges that Defendant United Fire wrongfully denied or delayed payment for claims for wind/hail damage to the structure insured by United

Fire, thereby breaching the policy of insurance issued by United Fire to Plaintiff. Plaintiff further alleges extra-contractual claims such as that United Fire's actions in investigating and delaying or denying Plaintiff's claim for insurance benefits constituted a violation of the common law duty of good faith and fair dealing and certain statutory violations.

4. This Court has original jurisdiction over this civil action under the provisions of 28 U.S.C. §1332. Plaintiff, by nature of its citizenship and of its principal place of business, is a citizen of the state of Texas. Defendant, United Fire, by nature of its incorporation and of its principal place of business, is a citizen of the state of Iowa.

5. The amount in controversy is in excess of \$75,000, exclusive of interest and costs.

6. Venue is proper in Lubbock Division of the Northern District of Texas because the insured property is located in Lubbock, Lubbock County, Texas, which is the location where the facts giving rise to this suit took place.

7. In accordance with 28 U.S.C. § 1446 (a), the following are attached hereto:

- Exhibit A: Index of Matters Being Filed;
- Exhibit B: A copy of the Citation as to United Fire & Casualty Company;
- Exhibit C: Plaintiff's Original Petition;
- Exhibit D: Defendant United Fire & Casualty Company's Original Answer;
- Exhibit E: The state court's Docket Sheet;
- Exhibit F: List of all Parties and Counsel of record;
- Exhibit G: Defendant United Fire & Casualty Company's Consent to Removal of Case to Federal Court;
- Exhibit H: Defendant United Fire & Casualty Company's Disclosure Statement.

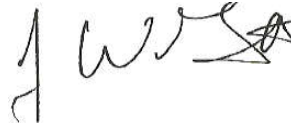
8. The citation and petition in this action were served on United Fire on March 11, 2019 by serving its registered agent: Lance Arnott, 1999 Bryan Street, Suite 900, Dallas, Texas 75201. This notice of removal is filed within 30 days of receipt of the petition and is timely filed under 28 U.S.C. § 1446(b). Furthermore, this notice of removal is being filed within one year of the date this action was commenced.

9. In accordance with 28 U.S.C. §1446(d), written notice of the filing of this notice of removal will be promptly served upon all adverse parties, and a copy of this notice of removal promptly will be filed with the Clerk of the District Court of Lubbock County, Texas.

10. Defendant United Fire & Casualty Company respectfully requests that this action be removed to this Court and that this Court accept jurisdiction of this action and place this action on the docket of this Court for further proceedings as though the action originally had been instituted in this Court.

Respectfully submitted,

GAUNTT KOEN BINNEY & KIDD, LLP



By: _____

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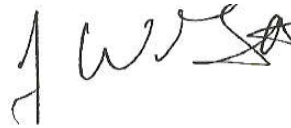
Counsel for Defendant

CERTIFICATE OF SERVICE

This pleading was served in compliance with Rule 5 Federal Rules of Civil Procedure on April 10, 2019, via facsimile, first class regular mail, certified mail, return receipt requested and/or electronically.

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